

REMARKS

Claims 1-28 are pending in the present application. Claims 1-21 have been withdrawn by the Examiner as being directed to non-elected inventions.

Support for the amendments *supra* can be found throughout the specification and claims as filed, for example, at lines 5-14 of page 14, and at lines 4-10 of page 7. Applicant asserts that no new matter has been added by amendment.

Issues raised in the Office Action will be addressed in the order they were raised by the Examiner.

1. Applicant acknowledges the withdrawal of the rejection of claims 22-25 under 35 USC § 112, second paragraph.

35 USC § 103(a)

2. The rejection of claims 22-25 under 35 USC § 103(a) as allegedly being unpatentable over Madiyalakan et al. (WO 97/42973) in view of Goletz et al. (U.S. Patent 5,997,869) was maintained by the Examiner.

The Examiner states at page 3 of the office action that “Madiyalakan et al clearly teaches generation of a cytotoxic T cell response leads to increased survival in patients injected with the Mab-43.13 (see examples 8 and 9). In addition, the rejection is based on a combination of teachings and Goletz et al is supplied for the teachings of testing prior to administration”.

Applicant would like to respectfully draw Examiner’s attention to an apparent typographical error at line 5 of page 3 of the Office Action. Applicant assumes the Examiner was referring to Mab-B43.13 with respect to examples 8 and 9 of the instant application, not Mab-43.13.

Furthermore, Applicant respectfully traverses the rejection. In addition to the arguments of record, claim 22 has been amended such that an increase of at least 1.5 fold in T cell response is indicative of a favorable response. Neither Madiyalakan et al. (WO 97/42973), nor Goletz et al. teach at least a 1.5 fold increase in T cell response as an indication of a favorable diagnosis of

the efficacy of a xenotypic antibody-mediated immunotherapy. Thus, Applicant asserts that amended claims are not obvious in view of Madiyalakan et al. (WO 97/42973) and Goletz et al., either alone or in combination.

Applicant respectfully requests reconsideration and withdrawal of the rejection.

3. The rejection of claims 22-25 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Madiyalakan et al. (U.S. 6,241,985) in view of Goletz et al. (U.S. Patent 5,997,869) was maintained by the Examiner.

Applicant respectfully traverses the rejection. In addition to the arguments of record, claim 22 has been amended such that an increase of at least 1.5 fold in T cell response is indicative of a favorable response. Neither Madiyalakan et al. (U.S. 6,241,985), nor Goletz et al. teach or suggest at least a 1.5 fold increase in T cell response as an indication of a favorable diagnosis of the efficacy of a xenotypic antibody-mediated immunotherapy. Thus, Applicant asserts that amended claims are not obvious in view of Madiyalakan et al. (U.S. 6,241,985) and Goletz et al., either alone or in combination.

In view of the amendment to the claims, Applicant respectfully requests reconsideration and withdrawal of the rejection.

New Grounds of Rejection.

35 USC § 112, second paragraph

4. Claims 22-25 are under 35 USC 112, second paragraph as allegedly being indefinite.

The Examiner states at pages 4-5 of the office action that the claims are indefinite for reciting “wherein the T cell response produced to such an antigen after administration . . . relative to the level of the T cell response produced by the patient prior to the administration” in claim 22 because it is not clear whether the T cell response increases or decreases upon administration of the xenotypic antibody.

Applicant asserts that claim 22 has been currently amended such that an efficacious T cells response is indicated by an at least 1.5 fold increase, such that the metes and bounds of the claim are now definite.

Applicant respectfully requests reconsideration and withdrawal of the rejection in view of the amendment to claim 22 and the argument set forth *supra*.

35 USC § 102(b)

5. Claims 22-25 are rejected under 35 USC 102(b) as allegedly being anticipated by Madiyalakan et al. (WO 97/42973, published November 20, 1997).

The Examiner states at page 6 of the office action that “Madiyalakan et al teach administration of a mouse antibody directed to CA125 which is Mab-B43.13 which led to increased in cytotoxic T lymphocytes in human cancer patients (see Examples 2 and 8) and stimulates both a humoral and cellular response and administration of the xenotypic antibody led to an increase in the mean survival of the patients (see example 9)”. Further, since the “claims only recite a T cell response after administration which Madiyalakan et al teaches and if there is no T cell response prior to administration and one after it would be inherent that there was a relative level of change thus the art reads on the claims”.

Applicant respectfully traverses the rejection. Claim 22 has been amended such that an increase of at least 1.5 fold in T cell response is indicative of a favorable response. Madiyalakan et al. (WO 97/42973) does not teach or suggest that at least a 1.5 fold increase in T cell response as an indication of a favorable diagnosis of the efficacy of a xenotypic antibody-mediated immunotherapy. Thus, Applicant asserts that amended claims are not anticipated by Madiyalakan et al. (WO 97/42973).

Applicant respectfully requests reconsideration and withdrawal of the rejection.

35 USC § 102(e)

6. Claims 22-25 are rejected under 35 USC 102(e) as allegedly being anticipated by Madiyalakan et al. (US 6,241,985, filed March 20, 1998).

Applicant respectfully traverses the rejection. Claim 22 has been amended such that an increase of at least 1.5 fold in T cell response is indicative of a favorable response. Madiyalakan et al. (US 6,241,985) does not teach or suggest at least a 1.5 fold increase in T cell response as an indication of a favorable diagnosis of the efficacy of a xenotypic antibody-mediated immunotherapy. Thus, Applicant asserts that amended claims are not anticipated by Madiyalakan et al. (US 6,241,985).

Applicant respectfully requests reconsideration and withdrawal of the rejection.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Respectfully Submitted,

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